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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,275	09/26/2001	Ken-Shwo Dai	U 013654-2	9939

7590 08/15/2003

Ladas & Parry
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New York, NY 10023

EXAMINER
RAWLINGS, STEPHEN L

ART UNIT	PAPER NUMBER
1642	

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/964,275	DAI ET AL.	
	Examiner	Art Unit	
	Stephen L. Rawlings, Ph.D.	1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 October 2001 and 25 July 2002* .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-26* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Election facsimile cover sheet* .

DETAILED ACTION

1. The amendment filed October 11, 2001 in Paper No. 4 is acknowledged and has been entered. Claims 7, 14, 16, 17, 19, and 23 have been amended.

2. The amendment filed July 25, 2002 in Paper No. 11 is acknowledged and has been entered.

3. Claims 1-26 are pending in the application and are currently subject to restriction.

Election/Restrictions

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claim 1, insofar as the claim is drawn to a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, classified in class 530, subclass 350.

Group II. Claim 1, insofar as the claim is drawn to a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, classified in class 530, subclass 350.

Group III. Claim 1, insofar as the claim is drawn to a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, classified in class 530, subclass 350.

Group IV. Claim 1, insofar as the claim is drawn to a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, classified in class 530, subclass 350.

Group V. Claim 1, insofar as the claim is drawn to a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, classified in class 530, subclass 350.

Group VI. Claim 2, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, wherein said fragment comprises amino acids 1 to 82 of SEQ ID NO: 2, classified in class 530, subclass 300.

Group VII. Claim 2, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, wherein said fragment comprises amino acids 254 to 264 of SEQ ID NO: 2, classified in class 530, subclass 300.

Group VIII. Claim 3, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises amino acids 1 to 82 of SEQ ID NO: 4, classified in class 530, subclass 300.

Group IX. Claim 3, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises amino acids 118 to 146 of SEQ ID NO: 4, classified in class 530, subclass 300.

Group X. Claim 3, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises amino acids 283 to 292 of SEQ ID NO: 4, classified in class 530, subclass 300.

Group XI. Claim 4, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises amino acids 36 to 64 of SEQ ID NO: 6, classified in class 530, subclass 300.

Group XII. Claim 4, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises amino acids 201 to 211 of SEQ ID NO: 6, classified in class 530, subclass 300.

Group XIII. Claim 5, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises amino acids 1 to 82 of SEQ ID NO: 8, classified in class 530, subclass 300.

Group XIV. Claim 5, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises amino acids 118 to 146 of SEQ ID NO: 8, classified in class 530, subclass 300.

Group XV. Claim 6, insofar as the claim is drawn to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said fragment comprises amino acids 36 to 64 of SEQ ID NO: 10, classified in class 530, subclass 300.

Group XVI. Claim 7, 8, and 14-16, insofar as the claims are drawn to a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, wherein said nucleic acid molecule is SEQ ID NO: 1, an expression vector comprising said nucleic acid molecule, a host cell comprising said vector, and a method for producing a polypeptide

comprising the amino acid sequence of SEQ ID NO: 2, classified in class 536, subclass 23.5, class 435, subclass 320.1, class 435, subclass 325+, and class 435, subclass 69.1, respectively.

Group XVII. Claim 7, 8, and 14-16, insofar as the claims are drawn to a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said nucleic acid molecule is SEQ ID NO: 3, an expression vector comprising said nucleic acid molecule, a host cell comprising said vector, and a method for producing a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, classified in class 536, subclass 23.5, class 435, subclass 320.1, class 435, subclass 325+, and class 435, subclass 69.1, respectively.

Group XVIII. Claim 7, 8, and 14-16, insofar as the claims are drawn to a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said nucleic acid molecule is SEQ ID NO: 5, an expression vector comprising said nucleic acid molecule, a host cell comprising said vector, and a method for producing a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, classified in class 536, subclass 23.5, class 435, subclass 320.1, class 435, subclass 325+, and class 435, subclass 69.1, respectively.

Group XIX. Claim 7, 8, and 14-16, insofar as the claims are drawn to a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said nucleic acid molecule is SEQ ID NO: 7, an expression vector comprising said nucleic acid molecule, a host cell comprising said vector, and a method for producing a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, classified in class 536, subclass 23.5, class 435, subclass 320.1, class 435, subclass 325+, and class 435, subclass 69.1, respectively.

Group XX. Claim 7, 8, and 14-16, insofar as the claims are drawn to a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said nucleic acid molecule is SEQ ID NO: 9, an expression vector comprising said nucleic acid molecule, a host cell comprising said vector, and a method for producing a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, classified in class 536, subclass 23.5, class 435, subclass 320.1, class 435, subclass 325+, and class 435, subclass 69.1, respectively.

Group XXI. Claims 7, 9, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, wherein said fragment comprises nucleotides 1 to 115 of SEQ ID NO: 1, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXII. Claims 7, 9, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, wherein said fragment comprises nucleotides 876 to 905 of SEQ ID NO: 1, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXIII. Claims 7, 10, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises nucleotides 1 to 115 of SEQ ID NO: 3, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXIV. Claims 7, 10, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises nucleotides 224 to 289 of SEQ ID NO: 3, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXV. Claims 7, 10, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises nucleotides 963 to 992 of SEQ ID NO: 3, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXVI. Claims 7, 11, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises nucleotides 1 to 115 of SEQ ID NO: 5, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXVII. Claims 7, 11, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises nucleotides 495 to 582 of SEQ ID NO: 5, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXVIII. Claims 7, 11, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises nucleotides 561 to 648 of SEQ ID NO: 5, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXIX. Claims 7, 11, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises nucleotides 1029 to 1058 of SEQ ID NO: 5, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXX. Claims 7, 12, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises nucleotides 1 to 115 of SEQ ID NO: 7, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXI. Claims 7, 12, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises nucleotides 495 to 582 of SEQ ID NO: 7, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXII. Claims 7, 12, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising

the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises nucleotides 759 to 878 of SEQ ID NO: 7, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXIII. Claims 7, 12, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises nucleotides 1083 to 1112 of SEQ ID NO: 7, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXIV. Claims 7, 13, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said fragment comprises nucleotides 1 to 115 of SEQ ID NO: 9, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXV. Claims 7, 13, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said fragment comprises nucleotides 224 to 289 of SEQ ID NO: 9, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXVI. Claims 7, 13, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said fragment comprises nucleotides 561 to 648 of SEQ ID NO: 9, classified in class

536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXVII. Claims 7, 13, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said fragment comprises nucleotides 825 to 944 of SEQ ID NO: 9, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXVIII. Claims 7, 13, 14, and 15, insofar as the claims are drawn to a nucleic acid molecule encoding a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said fragment comprises nucleotides 1149 to 1178 of SEQ ID NO: 9, classified in class 536, subclass 23.5, class 435, subclass 320.1, and class 435, subclass 325+, respectively.

Group XXXIX. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, classified in class 530, subclass 387.9.

Group XL. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, classified in class 530, subclass 387.9.

Group XLI. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, classified in class 530, subclass 387.9.

Group XLII. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, classified in class 530, subclass 387.9.

Group XLIII. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, classified in class 530, subclass 387.9.

Group XLIV. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, wherein said fragment comprises amino acids 1 to 82 of SEQ ID NO: 2, classified in class 530, subclass 387.9.

Group XLV. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, wherein said fragment comprises amino acids 254 to 264 of SEQ ID NO: 2, classified in class 530, subclass 387.9.

Group XLVI. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises amino acids 1 to 82 of SEQ ID NO: 4, classified in class 530, subclass 387.9.

Group XLVII. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises amino acids 118 to 146 of SEQ ID NO: 4, classified in class 530, subclass 387.9.

Group XLVIII. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the

amino acid sequence of SEQ ID NO: 4, wherein said fragment comprises amino acids 283 to 292 of SEQ ID NO: 4, classified in class 530, subclass 387.9.

Group XLIX. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises amino acids 36 to 64 of SEQ ID NO: 6, classified in class 530, subclass 387.9.

Group L. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, wherein said fragment comprises amino acids 201 to 211 of SEQ ID NO: 6, classified in class 530, subclass 387.9.

Group LI. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises amino acids 1 to 82 of SEQ ID NO: 8, classified in class 530, subclass 387.9.

Group LII. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, wherein said fragment comprises amino acids 118 to 146 of SEQ ID NO: 8, classified in class 530, subclass 387.9.

Group LIII. Claims 17 and 18, insofar as the claims are drawn to an antibody specifically binding to a fragment of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, wherein said fragment comprises amino acids 36 to 64 of SEQ ID NO: 10, classified in class 530, subclass 387.9.

Group LIV. Claims 19-22, insofar as the claims are drawn to a method for detecting the presence of a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, and fragments thereof, classified in class 435, subclass 6.

Group LV. Claims 19-22, insofar as the claims are drawn to a method for detecting the presence of a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, and fragments thereof, classified in class 435, subclass 6.

Group LVI. Claims 19-22, insofar as the claims are drawn to a method for detecting the presence of a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, and fragments thereof, classified in class 435, subclass 6.

Group LVII. Claims 19-22, insofar as the claims are drawn to a method for detecting the presence of a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, and fragments thereof, classified in class 435, subclass 6.

Group LVIII. Claims 19-22, insofar as the claims are drawn to a method for detecting the presence of a nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, and fragments thereof, classified in class 435, subclass 6.

Group LIX. Claims 23-26, insofar as the claims are drawn to a method for detecting the presence of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, classified in class 435, subclass 7.1.

Group LX. Claims 23-26, insofar as the claims are drawn to a method for detecting the presence of a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, classified in class 435, subclass 7.1.

Group LXI. Claims 23-26, insofar as the claims are drawn to a method for detecting the presence of a polypeptide comprising the amino acid sequence of SEQ ID NO: 6, classified in class 435, subclass 7.1.

Group LXII. Claims 23-26, insofar as the claims are drawn to a method for detecting the presence of a polypeptide comprising the amino acid sequence of SEQ ID NO: 8, classified in class 435, subclass 7.1.

Group LXIII. Claims 23-26, insofar as the claims are drawn to a method for detecting the presence of a polypeptide comprising the amino acid sequence of SEQ ID NO: 10, classified in class 435, subclass 7.1.

5. The inventions are distinct, each from the other because of the following reasons:

The inventions in groups I-LIII are disclosed as biologically and chemically distinct, unrelated in structure and/or function, and/or made by and/or used in different methods, and therefore the claimed products are distinct.

The inventions in groups LIV-LXIII are disclosed as materially different methods that differ at least in objectives, method steps, reagents and/or doses and/or schedules used, response variables, assays for end products and/or results, and criteria for success, and therefore the claimed methods are distinct.

Inventions XVI-XXXVIII and LIV-LVIII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed, namely the nucleic acid molecule can be used in a materially

different process of using that product, such as the process of producing the polypeptide encoded by the nucleic acid molecule.

Inventions XXXIX-XLIII and LIX-LXIII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed, namely the antibody can be used in a materially different process of using that product, such as the process of purifying the polypeptide to which the antibody binds by affinity chromatography.

The inventions in groups I-XV and LIV-LXIII are not at all related because the products of groups I-XV are not specifically used in any of the steps of the claimed methods in groups LIV-LXIII.

The inventions in groups XVI-XXXVIII and LIX-LXIII are not at all related because the products of groups XVI-XXXVIII are not specifically used in any of the steps of the claimed methods in groups LIX-LXIII.

The inventions in groups XXXIX-XLIII and LIV-LVIII are not at all related because the products of groups XXXIX-XLIII are not specifically used in any of the steps of the claimed methods in groups LIV-LVIII.

The inventions in groups XLIV-LIII and LIV-LXIII are not at all related because the products of groups XLIV-LIII V are not specifically used in any of the steps of the claimed methods in groups LIV-LXIII.

6. Because these inventions are distinct for the reasons given above and also because the search required for any one group is not required for any other group and/or the inventions have acquired a separate status in the art as shown by their different classification or their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. It is noted that the claims of the instant application include a linking claim. The restriction requirement among the linked inventions is subject to the non-allowance of the linking claim, namely claim 1. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claim depending from or otherwise including all the limitations of the allowable linking claim will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claim are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

8. Claim 17 is generic to a plurality of disclosed patentably distinct species of invention wherein said hybridizing process is conducted by (a) Northern blot approach or (b) microarray approach. Applicants are required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should Applicants traverse on the ground that the species are not patentably distinct, Applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is (703) 305-3008. The examiner can normally be reached on Monday-Friday, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony C. Caputa, Ph.D. can be reached on (703) 308-3995. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Stephen L. Rawlings, Ph.D.
Examiner
Art Unit 1642

S. Rawlings
STEPHEN RAWLINGS

slr

RESTRICTION ELECTION FACSIMILE TRANSMISSION

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IN COMPLIANCE WITH 1096-OG 30, THE FILING DATE ACCORDED EACH OFFICIAL FAX TRANSMISSION WILL BE DETERMINED BY THE FAX MACHINE DATE STAMP FOUND ON THE LAST PAGE OF THE TRANSMISSION, UNLESS THAT DATE IS A SATURDAY, SUNDAY, OR FEDERAL HOLIDAY WITHIN THE DISTRICT OF COLUMBIA, IN WHICH CASE THE OFFICIAL DATE OF RECEIPT WILL BE THE NEXT BUSINESS DAY.